

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 421 (RA)

5 SADDAM MOHAMED RAISHANI,

Sentence

6 Defendant.

7 -----x

8 New York, N.Y.
9 April 2, 2019
4:15 p.m.

10 Before:

11 HON. RONNIE ABRAMS,

12 District Judge

13 APPEARANCES

14 GEOFFREY S. BERMAN

15 United States Attorney for the
16 Southern District of New York

GEORGE TURNER

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17 Assistant United States Attorneys

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(Case called)

MR. TURNER: Good afternoon, your Honor. George Turner and Sid Kamaraju for the government.

MR. KAMARAJU: Good afternoon.

THE COURT: Good afternoon.

MR. MCMAHON: Good afternoon, your Honor. Gerold McMahon for the defendant Saddam Raishani.

THE COURT: Good afternoon to both of you. You can be seated. So this matter is on for sentencing. Mr. Raishani pled guilty in November to attempting to provide material support to a foreign terrorist organization and conspiring to provide material support or resources to a foreign terrorist organization.

In connection with today's proceeding, I've reviewed the following submissions: The final presentence investigation report, revised as of February 6; Mr. Raishani's sentencing memorandum, dated March 18 with accompanying exhibits; and a supplemental submission, dated March 27, and the government's sentencing memorandum, dated March 26.

Have the parties received each of these submissions and am I missing anything?

MR. TURNER: We've received the submissions, your Honor, and there's nothing further from the government.

THE COURT: Thank you.

1 MR. MCMAHON: Same with the defense, your Honor.

2 THE COURT: Thank you, Mr. McMahon.

3 Why don't we begin by discussing the presentence
4 report.

5 Mr. McMahon, have you read the presentence report and
6 discussed it with your client?

7 MR. MCMAHON: We have, your Honor.

8 THE COURT: Do you have any objections?

9 MR. MCMAHON: No, we do not.

10 THE COURT: Does the government have any objections to
11 the presentence report?

12 MR. TURNER: No, your Honor.

13 THE COURT: The court adopts the factual findings in
14 the report. The presentence report will be made a part of the
15 record in this matter and placed under seal. If an appeal is
16 taken, counsel on appeal may have access to the sealed report
17 without further application to the Court.

18 Mr. Raishani, when you pled guilty in November, we
19 discussed the federal sentencing guidelines. As you know, they
20 are a set of rules. They are designed to guide judges when
21 they impose sentence, although at one time they were mandatory,
22 meaning judges were required to follow them, they're no longer
23 binding on judges. They're no longer mandatory, but judges
24 must nonetheless consider them.

25 Do the parties agree with the guidelines calculation

1 in the presentence report pursuant to which Mr. Raishani is
2 facing a guidelines range of 300 months in prison?

3 MR. TURNER: Yes, your Honor.

4 MR. MCMAHON: Yes, your Honor.

5 THE COURT: So based on the parties' agreement and my
6 independent evaluation of the sentencing guidelines, I accept
7 the guidelines calculation in the presentence report. I find
8 Mr. Raishani's offense level is 36, his criminal history
9 category is six, and his recommended guidelines sentence is 300
10 months in prison.

11 As I said a moment ago, that range is only advisory.
12 Courts may impose a sentence outside of that range based on one
13 of two legal concepts, a departure or a variance. A departure
14 allows for a sentence outside of the advisory range based on
15 some provision of the guidelines themselves. In the plea
16 agreement, both parties agree that no departure from the
17 guidelines range is warranted. Nevertheless, I've considered
18 whether there is an appropriate basis for departure from the
19 advisory range within the guidelines system. And while
20 recognizing that I have the authority to depart, I don't find
21 any grounds warranting departure. I also have the power to
22 impose a nonguidelines sentence based on what we call a
23 variance, as you all know. With that, I'll hear from the
24 parties.

25 Would the government like to be heard?

1 MR. TURNER: Thank you, your Honor. We would.

2 Your Honor, the government made a detailed submission
3 which your Honor alluded to. We won't repeat what's in our
4 submission, but we would like to highlight several points for
5 the Court.

6 THE COURT: Sure.

7 MR. TURNER: And the first, your Honor, is the
8 duration of the defendant's support for ISIS.

9 THE COURT: It's almost a two-year period.

10 MR. TURNER: It's almost a two-year period. That's
11 correct. It began with a pact with another ISIS follower, the
12 follower we described as CC-1 in our papers. That was in 2015.
13 And it culminated after nearly two years with the defendant's
14 attempt to travel overseas himself to join ISIS.

15 Your Honor, this was not a hasty or a rash or
16 impulsive decision. This was a period of time during which the
17 defendant radicalized, and that radicalization fermented and
18 built and culminated in his own efforts to travel overseas and
19 join this group. We submit that is relevant for a number of
20 respects, but particularly it underscores the seriousness of
21 the conduct, and the need for the sentence here to protect the
22 public from further crimes of the defendant. His
23 radicalization at the time of his arrest was total and
24 absolute.

25 Your Honor, another point we'd like to address, and we

1 do touch on this in our submission, but it is the defendant's
2 claim at sentencing that he intended only to provide medical
3 services to the Islamic State after traveling overseas. The
4 undisputed facts in this case, including the facts set forth in
5 the PSR, to which there are there is no objection, made clear
6 that the notion that the defendant was somehow just a peaceful
7 humanitarian or someone interested only in providing
8 humanitarian aide is nonsense. The defendant absorbed,
9 consumed, and embraced violent ISIS propaganda. These are
10 videos that glorified beheading, murder, terrorist acts. He
11 trained physically before traveling, attempting to travel
12 overseas. He told an undercover law enforcement officer that
13 he was prepared and aspired to die to commit the ultimate
14 sacrifice to martyr himself for ISIS. The defendant was fully
15 prepared to fight for ISIS and assist the group and further its
16 cause in any way that he could.

17 But even if, even if the Court credits the defendant's
18 claim that he intended to provide medical services, that
19 doesn't mitigate his conduct here. The Second Circuit, this is
20 the *Farhane* case we cite in our papers. The Second Circuit has
21 made clear that providing medical services to a terrorist
22 organization is squarely within the heartland of the type of
23 conduct that the material support statute prescribes. ISIS and
24 other groups like it, they need, they depend on followers
25 supporting and serving the groups in any number of ways. And

1 here, the defendant, even if we credit that claim, he assisted
2 and supported another ISIS supporter to travel overseas and
3 travel and fight successfully for ISIS.

4 THE COURT: Is the first time that you've heard this
5 contention that he was only going over there to provide medical
6 assistance at sentencing in connection with the sentencing?

7 MR. TURNER: Your Honor, the defendant did reference
8 his medical background and his capability to provide those
9 types of services during the course of the investigation, but
10 that was in parallel to also making these other references to
11 his willingness and his preparation to serve the group in other
12 ways. And we would also note that he explicitly described how
13 he intended to use his medical background as a ruse to cross
14 borders overseas posing as a humanitarian aid worker. Your
15 Honor, it's quite possible that the defendant did intend to
16 provide some medical assistance when he reached the Islamic
17 State, it is clear from the fact that he was prepared to fight
18 and serve the group in other ways.

19 Your Honor, we would note for the Court in this
20 regard, we noted in the our submission, it is telling in our
21 view that the probation office, which interviewed the defendant
22 rejected this claim as an after-the-fact attempt to justify his
23 actions. And the probation department put it, in our view,
24 quite well, when there is no possible justification for seeking
25 to join and serve a group like ISIS.

1 Your Honor, the third point we'd like to touch on is
2 related to the first point, the duration of the conduct, but
3 it's the intensity of the radicalization here. The facts leave
4 no doubt that at the time this defendant walked down that
5 jetway and tried to board a plane, his commitment to the cause,
6 the murderous cause of ISIS was total. This is a defendant who
7 wrote a will, a lengthy will, and left it for his family
8 members. We've attached that to our submission. We
9 respectfully submit that will is cold, it is calculating, and
10 it is terrifying, because it is a window into a man who was
11 prepared to leave everything behind -- the family members and
12 the other, undoubtedly supporters of the defendant today, those
13 are the people who the defendant was willing and prepared to
14 abandon. He chose ISIS over those folks.

15 Now, he didn't just choose ISIS. He did it after
16 trying to convince his wife to go with him. So during that
17 intervening period between helping CC-1 and trying to travel
18 overseas, he tried to radicalize his wife and get her to go
19 with him. She refused. That didn't stop him. He left her on
20 his way to the airport.

21 Your Honor, another factor is the defendant's life
22 experiences, his history and his characteristics. Those are
23 aggravating factors here, because ISIS, over the last several
24 years and other groups like it, but ISIS has preyed often on
25 young men who are, for various reasons wayward, perhaps it's

1 drug addictions, perhaps it's a lack of family connections, no
2 job. The defendant was none of those things. He was in his
3 late 20s, he wasn't a teenager, he had a college degree, he was
4 employed, family connections, he was a United States citizen,
5 and he made a considered and calculated decision over time to
6 leave all of that behind and choose ISIS over all of that.
7 Judge, in our view that is terrifying, because that is
8 indicative, it underscores the commitment to the cause and the
9 likelihood that he would return to supporting radical jihadist
10 ideology.

11 Lastly, Judge, deterrence. We respectfully submit it
12 is a very important consideration here. We are living,
13 unfortunately, in a world where ISIS and other groups like it
14 recruit young men in the west and in this country through their
15 propaganda and websites online.

16 THE COURT: Do you think a lengthy jail sentence is
17 going to deter someone who is willing to die for an extremist
18 cause?

19 MR. TURNER: Judge, we think it's an significant
20 consideration for this reason. In 2015, the defendant, an
21 educated man living comfortably made a conscious choice to go
22 down this road. He starts consuming propaganda and he
23 radicalizes. We submit the next young man who is out there now
24 who is not radicalized yet who still has a choice yet and who
25 is not yet brainwashed and who is not yet prepared to die for

1 ISIS should understand and that a sentence in a case like this
2 a United States citizen in the New York City area who picks up
3 and is willing to leave and go and join and fight for ISIS, the
4 sentence imposed, we submit should send the message when you
5 conspire with a terrorist organization like that and you make
6 that choice, the consequences will be of the utmost
7 seriousness.

8 Judge, I'll conclude by saying that for all of those
9 reasons and all of the other reasons that we've set forth in
10 our submission, we do submit that the appropriate sentence here
11 is a guidelines sentence and that the defense has not
12 identified any mitigating considerations. And we submit that's
13 because there aren't any. Most recently, the defense put in a
14 sentencing reply letter, which contained personal attacks
15 against government counsel, in terms of its substance,
16 frankly, it was bizarre and somewhat disturbing. This case has
17 nothing to do with the IRA or Vietnam. And your Honor, the
18 notion that terrorism with respect to ISIS is somehow in the
19 eyes of the beholder, that's beyond the pale. This is a group
20 that is responsible for countless deaths of Americans here and
21 abroad, and the defendant tried to board a plane overseas, join
22 it, and help it.

23 So, your Honor, at the end of the day, this case is
24 fairly straightforward. The defendant radicalized, he devoted
25 himself to ISIS, he helped another man, another U.S. citizen

1 travel overseas and join and fight for ISIS, and then he tried
2 to do the same thing himself. We believe that a guidelines
3 sentence is warranted and appropriate. It's the sentence that
4 probation recommends and it's supported by the case law that
5 we've cited in our papers, your Honor.

6 THE COURT: Thank you.

7 Mr. McMahon.

8 MR. MCMAHON: Yes, Judge. First of all, your Honor, I
9 do not believe that the reply submission was a personal attack
10 on the government.

11 THE COURT: There is a little bit of an attack on
12 there.

13 MR. MCMAHON: It was an attack on the government's
14 submission, the tone and tenor of that submission was, as I
15 thought exactly as I described.

16 THE COURT: Are you really comparing an ISIS fighter
17 to an American soldier?

18 MR. MCMAHON: Well, Judge, what I was comparing was
19 ISIS fighter to an IRA soldier and to an Irgun soldier.

20 And in terms of comparative impropriety, in terms of
21 comparative wrongdoing, you can't escape the fact that 58,000
22 American soldiers died in Vietnam in an undeclared war
23 originating in a mistake, in fact, a fraud, the Gulf of Tonkin.
24 I was that soldier. I got drafted, I could have been dead, but
25 I wasn't. So to say that the United States Government, which

1 perpetrated that act over 10 years, 58,000 dead and just to
2 say, well, that's nothing, you can't compare that to Al-Qaeda
3 or to ISIS, well, I do think in terms of harm caused, I think
4 you absolutely can.

5 As bad as ISIS is, and it is particularly bad mostly
6 in its tactics, beheading is an anathema to people in the west.
7 So you can't get around that. But in terms of, as I pointed
8 out, the total number of people dead as a result of ISIS
9 doesn't come anywhere near the 58,000 dead fellow soldiers who
10 fought in Vietnam in an undeclared war that was unjust and
11 immoral. And as to some of those people who were victims in My
12 Lai and other places of napalm attacks, that was not very
13 pretty either, not at all.

14 What I did try to point out in the reply, and I knew
15 that it would be, to say the least rile the government a little
16 bit, but there is, Judge, this concept of terrorism, we in the
17 west because of 9/11 and everything associated with that, we
18 have this view. And I myself, when Bin Laden was killed, it
19 was a great moment for all Americans. We feel that, we
20 understand that, but there's the rest of the world, we are not
21 the only country in the world.

22 And in terms of the Israelis, Menachem Begin was a
23 stone cold terrorist. He was an anathema to England, to United
24 States, to everybody. Except to the Jewish people there. So
25 he was an absolute terrorist, then he's the president of the

1 country, the Prime Minister.

2 Martin McGuinness, Adams, and Michael Collins were
3 terrorists. The IRAs, parts of it is still on the foreign
4 terrorist organization designation. That's what it is. Now,
5 to the McMahon family, the IRA has never been a terrorist
6 organization and never will be. So we don't care that the
7 government said now. That doesn't mean that I, Jerry McMahon
8 go out and give money and arms to the IRA, because I know the
9 consequences.

10 So the point I'm trying to make, Judge, and it's not a
11 equivalent, it's not a perfect equivalent, but don't be misled
12 by the concept of the terrorism that ISIS, Al-Qaeda and
13 Hezbollah are so foreign, so completely otherworldly that they
14 have to get a 25-year sentence with no criminal record and a
15 credible background and really no actual harm done.

16 THE COURT: We're talking about an organization that
17 regularly slaughters and beheads innocent people, enslaves
18 women.

19 MR. MCMAHON: Yes.

20 THE COURT: That rapes children.

21 MR. MCMAHON: Yes.

22 THE COURT: And in your view, should that not properly
23 be labeled a terrorist organization?

24 MR. MCMAHON: Yes, no question about it. And he
25 pleaded guilty when I came into the case, we probably pled

1 within three weeks after talking to the government and their
2 superiors.

3 Judge, that's the anomaly of the case. As the
4 government rightly points out, this is not your average
5 terrorist, by no means, I would dare say that in none of the
6 cases that he could find, Judge Jones or anything with judge
7 Berman, cases in California, all of the other places, how many
8 of those people had college degrees, a nursing degree, those
9 things?

10 THE COURT: But doesn't that make him more blameworthy
11 rather than less. It's different if you have a kid, if you
12 have someone young and impressionable, there are cases with
13 people who have some form of mental illness. But this is not
14 that case, this is someone who is a full-grown adult who made
15 this decision knowingly to radicalize.

16 MR. MCMAHON: Yes.

17 THE COURT: And I attribute that, your Honor, to two
18 things. No. 1, religion is an instrument of war, thousands and
19 thousands of years Muslims and Crusaders have been going at it.
20 In northern Ireland, Ireland, it was the Protestants and
21 Catholics. Religion creates the circumstances under which war
22 is easy. My client is a singularly disciplined, intense
23 person. He doesn't really do things halfway. That's to his
24 credit academically and things like that, but it's to his
25 detriment when he goes off on a religious path that is not very

1 good, not for him, not for his family or for the country.

2 As he said in his letter to the Court, that he
3 betrayed the country, he knows that. The country -- he came
4 here when he was about five years old. The country provided
5 his father and his mother with a good living. It provided him
6 with an education. Through his own efforts he worked it, but
7 it was a country where, unlike in the Middle East, here he
8 could work hard, get ahead, get an education, and do all of
9 those things. So in his letter to the Court, and I believe
10 that your Honor will see that as a heartfelt letter,
11 Mr. Raishani does not do things willy-nilly.

12 THE COURT: How do I know this is heartfelt? This is
13 a man who is deceptive in the course of his conduct. In the
14 will itself he directed his wife to mislead investigators.
15 When he looked at the propaganda, he deleted it, he wiped his
16 fingerprints. He was trying to cover his tracks. Why should I
17 believe that there is genuine remorse in that letter or
18 anything that he may choose to say today?

19 MR. MCMAHON: Because, Judge, I think it's a different
20 person today than he was then. I asked him that same question
21 when I'm interviewing him going over his background, I'm
22 talking about beheadings and stuff like that. I'm not bashful
23 about confronting him with that. I said to him, you're leaving
24 a wife and a child and your parents, what were you thinking?
25 To which his answer was, I wasn't. And he wasn't.

1 So your Honor, to some degree, whenever you sentence
2 the defendant, you have to take a bit of things on faith. You
3 can't hook up a machine and measure true remorse, you cannot,
4 but what you can see is what he has done in the two years since
5 he's been in jail. He has been enormously helpful to other
6 inmates. He was enormously helpful in suicide watch, being a
7 companion to inmates in there to help prevent suicide in MCC.
8 The letters have suggested this is a person who was extremely
9 helpful to her people. The nurse that he went to school with,
10 Kenny Ocasio, he describes an individual that they were in a
11 study group together, and Adam was unbelievable helpful to
12 everybody else in the group.

13 But turning more to the issue of the ISIS methodology.
14 Judge, people go off on crazy rants and the question is, is he
15 going to go off on another one when he goes out, that's the
16 question. And that's where the family support and the
17 education, having a wife and child, make it less likely.

18 THE COURT: That didn't make a difference. He had a
19 little baby at home. He left his wife, he left his child. Why
20 is it going to be different 15, 20 years from now?

21 MR. MCMAHON: Because when you're in the rapture of a
22 holy war that -- he was embarrassed, by the way, Judge. When
23 he had that other fellow from the mosque, CC-1 who went over
24 there, my client felt ashamed and humiliated that he went,
25 CC-1, and he didn't. And it sort of festered in him and he

1 felt guilty over the fact that the other guy acted on his
2 religious beliefs and my client didn't. And that really
3 festered on him for a year thinking about that.

4 And you also have to agree, Judge, that there was a
5 confidential source, an informant and an undercover agent that
6 he certainly didn't do anything to dissuade him from that and
7 it would be fair to say that they probably stoked the fires a
8 little bit, but we didn't make this -- we're not making that
9 claim that the responsibility for the decision that he made is
10 anything but his own.

11 There is one thing that I do want to clarify, the
12 government in their papers and in the argument here said that
13 my client's commitment was absolutely total and forever. Those
14 are the words that they were using. I don't think that the
15 facts justify that assessment. First of all, the plane ticket
16 that my client bought was a roundtrip ticket. It wasn't a
17 one-way ticket. It was a roundtrip ticket. This was a
18 gentleman who was meticulous about money, every dollar he
19 nursed every dollar. So he wasn't going.

20 THE COURT: He paid as many debts as he could before
21 he left.

22 MR. MCMAHON: Paid off his debts.

23 THE COURT: He prepared to die, right?

24 MR. MCMAHON: Yes, yes, but, but he prepared to die,
25 paid off his debts, apparently the Koran tells him he must.

1 But in the back of his mind, he's 32 years old, with everything
2 here. So he has a roundtrip ticket, and he also tells his
3 family, his brother that -- about this car that he had which he
4 was going to sell and give the proceeds to his wife. He told
5 his brother -- and it's part of the 3500 material -- that if I
6 come back shortly, tell the person that you're selling the car
7 to that I may want the car back. That's part of the evidence
8 in the case. So forever isn't necessarily forever. This is a
9 young kid who made an incredible decision to leave a wife, a
10 child.

11 THE COURT: He wasn't a kid. He was in his late 20s.
12 He was almost 30. He's 32 now. He had a child, a degree, he's
13 a nurse. This is not a kid. If this was a kid, I could
14 understand the argument.

15 MR. MCMAHON: Well, Judge, at the age of 29 some of my
16 29-year-old children are a little bit wacky at times too. So
17 he's not an 18-year-old, he's not a 15-year-old, he's --

18 THE COURT: I doubt your kids are joining
19 organizations that rape children.

20 MR. MCMAHON: Very much so. One of my sons is a Navy
21 pilot. So he certainly would not be in that category.

22 But Judge, if you take a look at the courtroom. These
23 people are from a different culture, a different faith, it's
24 completely different. You really can't compare us the front
25 table, the back table, the lawyer, it's a different culture

1 because of religion and he gets into this rapture, believes the
2 Koran, believes these videos, believes all of that and says,
3 I'm going to go there and provide medical services and maybe
4 die a martyr's death, a glorious death, but hedging a little
5 bit, return ticket home, and if I come back, get me the car.
6 So what I'm saying, Judge, forever isn't necessarily forever.

7 There is another thing that I want your Honor to think
8 about. And this is unique culturally for reasons we don't
9 know, and unique to young men. And when I say "young," I mean
10 30 -- 25, 30, but not to young women. Young men have this
11 concept as far back as reading Ernest Hemingway, writing about
12 joining the Republicans against the Fascists in the Spanish
13 Civil War. He went and joined the military, drove an
14 ambulance. Young men have this thing about testing themselves
15 and going into war, since time immemorial. And it's a concept
16 that young men get fixated on in doing it and you prove
17 yourself in the cauldron of war. Are you strong enough, brave
18 enough to do that?

19 Now, that's something that is also going through this
20 guy's mind. He's looking at the videos, as he's feeling the
21 shame that he's feeling for having the other guy go and he's
22 sitting home with a job, with a family, and the other guy is
23 carrying an AK-47. So all of those things are together, Judge.
24 It's what I'm trying to present is a picture of a guy who is
25 not irredeemably bad. I know that is a possibility, I know

1 that's a speculation, but he has -- when he gets out, he has
2 the possibility not to be irredeemably bad. And if he really
3 was irredeemably bad, he would not have acted the way that he
4 did while in incarceration. He would not have had the people
5 write about him that he is very kind to people. He is, there's
6 just no disputing that fact.

7 So when you take all those things together, Judge, and
8 I was thinking that that's one of the reasons why the
9 supervised release portion of the sentencing component could be
10 a very significant factor, but a sentence of 25 years, Judge,
11 what are you going to do for the people that make bombs and
12 blow up things here in New York or anywhere? He did no weapons
13 training or rifle training or IED training. He did none of
14 that. He's a nurse, he's a medic.

15 So if you are giving a 32-year-old guy with no
16 crimes -- now, I understand that the Second Circuit has said
17 it's fine, if you're convicted of terrorism your criminal
18 history category is VI, even though it's I. And even though
19 you're pleading guilty to the crime we're going to add 12 more
20 to the crime because it's terrorism. So they have
21 artificially -- the people in Washington, the sentencing
22 commission or Congress, to say the word is to make its own
23 comment, but they say that if you plead guilty to those crimes,
24 you got to get 25 to 50 years, no matter what your background
25 is. I don't think that's a determination for the politicians

1 to make. That's a determination for your Honor to make.

2 So it's not an easy one, Judge. It's a serious crime,
3 but in terms of what he actually did for that crime, and I
4 credit the FBI for that, I credit the law enforcement work, it
5 worked out to his benefit because had cars blown up or had
6 things happened, we wouldn't be arguing for a sentence that
7 we're arguing for, so I credit that. But sometimes the actual
8 result matters. So I would urge your Honor, given his
9 background, given the good deeds that he has, and he obviously
10 has a good inner character for the way that he has helped
11 people.

12 So your Honor can fashion the thing, a sentence that
13 will, as best as possible, minimize the risk that he's going to
14 be a recidivist. And I don't think because Washington says
15 that because he pleaded to a terrorism he'll be a recidivist.
16 I don't think it's justified, your Honor. A 25-year sentence
17 is simply not justified. And so, I would, approach your Honor
18 to be far more merciful than that.

19 THE COURT: Thank you.

20 Mr. Raishani, I read your letter, but is there
21 anything you'd like to say today?

22 THE DEFENDANT: Yes, your Honor. May I stand?

23 THE COURT: Yes, you may. Bring the microphone close
24 so I can hear you, please.

25 THE DEFENDANT: Good afternoon.

1 Thank you, your Honorable Judge Abrams for giving me
2 an opportunity to speak. I want to thank my lawyer and his
3 associate for representing me in this case. I want to thank my
4 family, friends, and loved ones for being here and supporting
5 me.

6 I would like to begin by saying that I am deeply sorry
7 for the actions that I've committed while being bestowed many
8 great opportunities in living in America. I apologize to the
9 Court, probation, the marshals for using their time and
10 services, resources. I am truly sorry and ashamed for the harm
11 that I have brought to everyone involved, especially my family,
12 my wife and my son. My actions and way of thinking were
13 selfish and wrong. I am very fortunate that I am alive and
14 here standing in front of your Honor.

15 I acknowledge I did have a problem so I immediately
16 pursued ways to rehabilitate myself. While incarcerated at
17 MCC, I worked on proving myself. I developed a new, more
18 grounded way of thinking. I sought cognitive-behavioral
19 therapy and counseling from a social worker and spiritual
20 leader on a monthly basis. I participated in programs such as
21 Focus Forward, Lead by Example, Step by Step, Reflection, which
22 focused on preparing me for a viable and successful reentry
23 into my community and society.

24 As a professional nurse, I always had a yearning to
25 help others. Just before I was incarcerated, I would visit

1 patients at their homes where they are situated in unsafe
2 dangerous neighborhoods, and I would still provide the same
3 dedicated care that I would give to patients at the hospital.

4 THE COURT: Can you see how from my perspective that
5 looks inconsistent with seeing videos of people being beheaded
6 and wanting to be part of that effort?

7 THE DEFENDANT: You're absolutely right.

8 With that dedicated care, it pushed me to join MCC's
9 inmate companion program, where I would observe, monitor, and
10 help fellow inmates who were fragile and unstable in a
11 psychological state and at times would be suicidal.

12 I participated in many programs, great educational
13 courses. I was an active GE tutor. I facilitated four
14 courses, which I felt were beneficial to my fellow inmates,
15 such as poetry, which would allow inmates to express their
16 feelings and emotions in a written spoken word; time
17 management, so that inmates could better realize their time,
18 reduce the wasting of it, and make more goal-oriented choices;
19 leadership, so that inmates can learn to become leaders, be
20 autonomous, and make more responsible decisions in life; and
21 finally, conflict resolution, where in this course, inmates
22 gain the skills and techniques in anger management and how to
23 defuse a tense situation.

24 My incarceration has been difficult, but at the same
25 time it has truly been a blessing. I've learned a lot and

1 changed for the better. My bond with my family is stronger
2 than ever. My outlook for the future is very positive. I am
3 really eager and looking forward to redeeming it. I no longer
4 hold the same views I had when I first came in. I do not
5 support or condone terrorism. I have learned and realized that
6 radicalism does not bring about a fruitful life, a life that
7 would allow me to grow as a human, raise a family and prosper.

8 In addition to the goals in my letter to you, if the
9 transition into nursing becomes difficult for me when I leave,
10 I would get into my second passion for a time being, which is
11 home renovation and real estate. I would learn these trades by
12 getting jobs in plumbing, electrical and carpentry during and
13 after my incarceration. My most important goal and desire in
14 life is to return to my family, provide them a life that they
15 deserve, and I know that this can only occur after a complete
16 my time.

17 I'm also seeking forgiveness from you, my family, my
18 friends, my loved ones, my fellow citizens, your Honor. I'm
19 only asking you to please give me an opportunity, a chance to
20 return to my family, redeem a life that I can live up to, be a
21 role model to those that need me and correct my path in life.

22 Thank you again, your Honor, for allowing me to speak.

23 THE COURT: Thank you.

24 I'm going to take just a one-minute break and ask you
25 all just to stay here momentarily.

1 Thank you.

2 (Recess)

3 THE COURT: Everyone can be seated. Thank you.

4 Is there any reason why sentence cannot be imposed at
5 this time?

6 MR. TURNER: No, your Honor.

7 MR. MCMAHON: No, your Honor.

8 THE COURT: So I'm required to consider the advisory
9 guidelines range, as well as various other factors that are
10 outlined in the provision of the law, it's 18 United States
11 Code, Section 3553(a), and I have done so.

12 Those factors include, but are not limited to the
13 nature and circumstances of the offense and the personal
14 history and characteristics of the defendant, because each
15 defendant must be considered individually as a person. Judges
16 are also required to consider the need for the sentence imposed
17 to reflect the seriousness of the offense, promote respect for
18 the law, provide just punishment for the offense, afford
19 adequate deterrence to criminal conduct, protect the public
20 from future crimes of the defendant, and avoid unwarranted
21 sentencing disparities, among other things.

22 I want to start by saying that in my view there is no
23 danger to society greater than that of terrorism, no danger
24 greater than that posed by those that think that they can
25 impose their will on others through senseless and

1 incomprehensible violence. And just to be clear in my view
2 this case is not about culture, it's not about religion, it's
3 about terrorism.

4 At sentencing, I often see people who are
5 fundamentally good people, but they've done bad things. And in
6 analyzing the sentencing factors, one question is about the
7 defendant's character, that's one of the things you're supposed
8 to look at, who is this person, what did they do, are they
9 likely to do it again? In other words, do they pose a
10 continued risk of danger to society?

11 I read all the letters from Mr. Raishani's family, his
12 friends, his neighbors, his fellow inmates that describe him as
13 smart and gentle and helpful to others. I've considered the
14 positive things he did he at the MCC including in participating
15 in Focus Forward, being on suicide watch, tutoring other
16 inmates. I heard Mr. Raishani himself talk very eloquently
17 about wanting to help others and describing his love for his
18 family.

19 But this is a case where I can also learn a tremendous
20 amount about the true character of the individual before me
21 from the conduct itself. This is someone who was willing and
22 indeed eager to leave behind his family and young son to join
23 an entity that slaughters innocents, enslaves women, and rapes
24 children. Mr. Raishani is now apologizing for his conduct for
25 betraying the country which gave him opportunities that he

1 acknowledges he never would have had in the country which he
2 was born.

3 In order to avoid unwarranted sentencing disparities,
4 in addition to considering the recommended guidelines sentence
5 I not only relied on the parties' submissions, but I surveyed
6 dozens of publicly available sentences where an individual had
7 been convicted of attempting to provide material support for
8 terrorism and factual circumstances similar to this one. Many
9 courts have sentenced defendants like Mr. Raishani to the
10 statutory maximum for a violation of the material support
11 statute, 18 United States Code 2339(b), which until recently
12 the statutory maximum was 15 years. Sometimes the sentence was
13 imposed consecutive to another sentence on an additional
14 charge. This also includes numerous cases where the defendant
15 did not reach his destination and includes cases where, unlike
16 Mr. Raishani, defendant did not also assist another individual
17 in traveling to fight for ISIS. There are also, of course, a
18 host of cases where defendants received significantly less time
19 for similar conduct.

20 In assessing further these unwarranted sentencing
21 disparities or the need to avoid them, I took into account
22 numerous factors, including the underlying conduct and the harm
23 caused, whether the individual facilitated the acts of others
24 or acted alone, whether the individual was young and especially
25 impressionable, had a history of mental illness or was somehow

1 manipulated, whether the individual acted for profit, for
2 passion, or otherwise in the sentence imposed among other
3 factors.

4 Unlike in some of the material support cases where,
5 like I referred to earlier that I've reviewed where a defendant
6 was young or had mental health issues, Mr. Raishani is a
7 32-year-old, naturalized United States citizen, with a college
8 degree, a former job as a nurse, and devoted parents, wife, and
9 a young son. Those are not mitigating factors. Nonetheless,
10 he sought to join a terrorist organization whose mission it is
11 to murder nonbelievers.

12 And his devotion to ISIS was not short-lived. Over a
13 year before the FBI's confidential source began speaking with
14 Mr. Raishani about his allegiance with ISIS, he had already
15 assisted the coconspirator in traveling overseas to join and
16 fight for ISIS. Indeed, it was almost two years after he first
17 assisted another in his successful attempt to travel overseas
18 and fight for ISIS, and Raishani's own attempt to board a plane
19 to Turkey where he planned to cross into Syria to similarly
20 join ISIS.

21 In a search of his Bronx residence, as we discussed,
22 law enforcement recovered a will the defendant addressed to his
23 family members where, among other things, he criticized his
24 wife for refusing to join ISIS with him and directed her to lie
25 to authorities and say that he went abroad to volunteer. It's

1 true that the defendant never reached his destination and never
2 actually fought for ISIS, but that's undoubtedly what he wanted
3 to do.

4 As for Raishani's argument that his intention to
5 provide medical services to ISIS makes him less culpable than
6 one who picks up arms on its behalf, I'm unpersuaded. Even if
7 I were to believe that were true factually, as the Supreme
8 Court has noted in *Holder v. Humanitarian Law Project*, such
9 support frees up other resources within the organization that
10 may be put to violent ends. If the defendant had played a role
11 of a highly competent trained nurse, another ISIS fighter who
12 might have been assisting people medically would have been free
13 to engage in violence. Indeed, I don't think it's been clear
14 ever that Raishani ever maintained that he drew a line between
15 what he would and wouldn't do for this violent organization.
16 He even acknowledged his willingness to die on behalf of ISIS.

17 One aspect that both parties highlighted in their
18 letters is that the defendant faced discomfort living in this
19 country in part due to others' treatment of him and his faith.
20 His sentencing submission indicates that he left his employment
21 after experiencing negative reactions from coworkers due to his
22 religion and that on one occasion, someone used his prayer mat
23 as a tablecloth. Of course no one should be subject to
24 religious intolerance.

25 And yet, in response to this intolerance, Mr. Raishani

1 was prepared to devote himself to a group which defines itself
2 by its intolerance of other religions. ISIS is well known for
3 its mass executions of nonbelievers, including Muslims who do
4 not share its radical interpretation of Islamic text. This is
5 a group which aims to purify the world of anyone who does not
6 look or think like that them. If the defendant sought to
7 escape religious intolerance, ISIS ways not the right
8 destination.

9 Finally, I considered the Congress's intent, evidenced
10 by the relevant guidelines analysis for defendants like
11 Raishani to serve sentences that as Judge Walker wrote in his
12 *Stewart* concurrence, reflect the need for deterrence,
13 regardless of the defendant's prior record. This need is
14 present without regard to whether, as Judge Walker wrote, due
15 to events beyond the defendant's control, the defendant's
16 conduct failed to achieve its intended deadly consequences
17 would be adherence to violent organizations like ISIS are on
18 notice, if you take steps to materially support terrorism, the
19 consequences will be severe.

20 Mr. Raishani, please rise for the imposition of
21 sentence.

22 It's the judgment of this Court that you be committed
23 to the custody of the Bureau of Prisons for a term of 20 years
24 on Count One, which is the statutory maximum and five years on
25 Count Two, which is the statutory maximum, to run concurrent to

1 one another.

2 I'm also imposing a term of supervised release on 20
3 years on Count One and three years on Count Two to run
4 concurrent to one another. I believe that this sentence is
5 sufficient but not greater than necessary to comply with the
6 purposes of sentencing set forth in the law.

7 If you'd like, you can be seated while I read the
8 conditions of your supervised release.

9 I'm not going to read the standard conditions of
10 release, unless anyone asks me to. They're on pages 21 and 22
11 of the presentence report, I am going to read the mandatory
12 conditions. You must not commit another federal, state, or
13 local crime; you must not unlawfully possess a controlled
14 substance; you must refrain from any unlawful use of a
15 controlled substance; you must submit to one drug test within
16 15 days of release from imprisonment and at least two periodic
17 drug tests thereafter as determined by the Court; and you must
18 comply with the standard conditions that have been adopted by
19 this Court.

20 In addition, there's a special condition that I think
21 is appropriate in this case proposed by the probation
22 department. You shall submit your person and any property,
23 residence, vehicle, papers, computer, other electronic
24 communication or data storage devices or media and effects to a
25 search at any time with or without a warrant by any law

1 enforcement or probation officer with reasonable suspicion
2 concerning a violation of a condition of a supervised release
3 or unlawful conduct by the person and by any probation officer
4 in a lawful discharge of the officer's supervision functions.
5 I think this is appropriate in light of the electronic devices
6 that were used in connection with the radicalization.

7 If I didn't note it already, you'll be supervised in
8 the district of your residence.

9 I decline to impose a fine, because the probation
10 department has reported that you're unable to pay one. I am
11 imposing a special assessment of \$200, which shall be paid
12 immediately.

13 Pursuant to the plea agreement, the defendant agreed
14 to forfeit \$3,812 to the United States. Is the government
15 still seeking that forfeiture?

16 MR. TURNER: Your Honor, we are seeking that
17 forfeiture, and we can submit an order for the Court's
18 consideration.

19 THE COURT: Mr. McMahon, there's no objection to that
20 amount I assume, correct?

21 MR. MCMAHON: That's correct, your Honor.

22 THE COURT: The government is seeking restitution. I
23 am assuming the answer is no.

24 MR. TURNER: No, your Honor.

25 THE COURT: So that's my sentence.

1 Is there any legal reason why either party believes
2 that this sentence cannot be imposed?

3 MR. TURNER: No, your Honor.

4 MR. MCMAHON: No, your Honor.

5 THE COURT: The sentence is imposed. That is the
6 sentence of this Court.

7 You have a right to appeal your conviction and
8 sentence, except to whatever extent you may have validly waived
9 that right as part of your plea agreement. If you do choose to
10 appeal, the notice of appeal must be filed within 14 days of
11 the judgment of conviction. If you're not able to pay the
12 costs of an appeal, you may apply for leave to appeal in *forma*
13 *pauperis*, which simply means the Court costs such as filing
14 fees will be waived. If you request, the clerk of court will
15 prepare and file the notice appeal on your behalf.

16 Are there any open counts against Mr. Raishani or
17 underlying indictments that need to be dismissed?

18 MR. TURNER: There are, your Honor. The defendant
19 pled guilty to a superseding information. We move that the
20 counts in the underlying indictments be dismissed.

21 THE COURT: They will be dismissed.

22 Are there any other applications at this time?

23 MR. MCMAHON: Yes, your Honor. I would ask that the
24 Court recommend that Mr. Raishani be designated to a facility
25 as close to New York as possible, given his family and ties

1 here.

2 THE COURT: I'll make that recommendation.

3 MR. MCMAHON: Lastly, Judge, he provided the Court
4 with a two-page transcript of his most recent compilation of
5 conduct at the facility, MCC, for the programs and stuff, and
6 as well as a certificate, and if that could be appended to the
7 minutes of the sentencing.

8 THE COURT: It will be appended.

9 And I don't doubt, as I said, the positive things that
10 he's been doing at the MCC. So I have considered that
11 generally and that would not have affected my sentence.

12 We're adjourned. Thank you.

13 (Adjourned)

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